



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

April 7, 2023

BY ECF

The Honorable Jennifer H. Rearden
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Martin Handler, et al*, 23 Cr. 004 (JHR)

Dear Judge Rearden:

Pursuant to the Court's March 21, 2023 Opinion and Order (ECF No. 71 (the "Mar. 21, 2023 Op. & Order")), the Government provides below an update regarding the status of its search, pursuant to a search warrant (the "Search Warrant"), of cellphones seized incident to the arrests of defendants Martin Handler, Menachem Lieberman, Isidore Handler, and Ben Werczberger.¹

1. Lieberman Cellphone

The Government has completed its extraction and review of data from the Lieberman Cellphone. The Government produced the full contents of its extraction to Lieberman only on March 2, 2023, and it produced data from the Lieberman Cellphone identified as responsive to the Search Warrant to all defendants on March 31, 2023.

Continued retention of the Lieberman Cellphone is necessary at this early stage of the case, when it is unknown how, if at all, the defense will challenge the accuracy, reliability, or authenticity of the Government's data extraction, or how the defense will challenge chain-of-custody evidence concerning the Lieberman Cellphone.

2. I. Handler Cellphone

The Government has extracted data from the I. Handler Cellphone, and the Government produced the full contents of that extraction to Isidore Handler only on March 2, 2023. The volume

¹ Unless otherwise defined, capitalized phrases are assigned the same meaning set forth in the Mar. 21, 2023 Op. & Order.

of data extracted from the I. Handler Cellphone is substantial, comprising approximately 64.2 gigabytes.

A filter team has since been conducting a review of data extracted from the I. Handler Cellphone for potentially privileged material. In its letter to the Court of March 24, 2023, the Government advised the Court that the filter team expected to provide the prosecution team with any data from the I. Handler Cellphone not identified as potentially privilege by today (April 7, 2023) so that the prosecution team could conduct a review of data that is not potentially privileged.

Subsequently, on March 30, 2023, counsel to Isidore Handler informed the Government that she was compiling a list of lawyers and law firms with whom Isidore Handler may have had an attorney-client relationship, and requested that the Government's filter team not provide to the prosecution team any data extracted from the I. Handler Cellphone pending counsel compiling such a list. Yesterday, April 6, 2023, defense counsel provided the Government with a list identifying potential counsel to Isidore Handler. The filter team is now consulting that list and determining how, if at all, the list affects the filter team's review of the data extracted from the I. Handler Cellphone. In the meantime, the filter team is not releasing to the prosecution team any data extracted from the I. Handler Cellphone. At this time, the Government cannot estimate with certainty how long it will take the filter team to utilize the list provided by Isidore Handler's counsel.

Due to the uncertainty of the volume or complexity of data that will be made available to the prosecution team, the Government cannot currently estimate when it expects to complete its review of data that is not potentially privileged or when it will be able to produce to all defendants any data from the I. Handler Cellphone that is identified as responsive. (As noted, *all* data from the I. Handler Cellphone has already been produced to Isidore Handler.)

Continued retention of the I. Handler Cellphone is necessary at this early stage of the case, when it is unknown how, if at all, the defense will challenge the accuracy, reliability, or authenticity of the Government's data extraction, or how the defense will challenge chain-of-custody evidence concerning the I. Handler Cellphone.

3. Werczberger Cellphone

The status of the Government's review of the Werczberger Cellphone is unchanged. The Government has extracted limited data from the Werczberger Cellphone's SIM card, and the Government produced the full contents of that extraction to Werczberger only on March 2, 2023. That data has not yet been reviewed by a filter team.

The Government has not otherwise been able to decrypt and extract any data from the Werczberger Cellphone, and its efforts to do so remain ongoing.

4. M. Handler Cellphone

The status of the Government's review of the M. Handler Cellphone is unchanged. The Government has not yet been able to decrypt or extract any data from the M. Handler Cellphone, and its efforts to decrypt and extract data from that cellphone remain ongoing.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: /s/
Mary E. Bracewell
Catherine Ghosh
Daniel H. Wolf
Assistant United States Attorneys
(212) 637-2218 / 1114 / 2337

cc: All Counsel of Record